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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

**Toshio HARIMA**

Group Art Unit:

Serial No: **10/625,531**

Examiner:

Filed : **July 24, 2003**

For : **ORTHODONTIC WIRE RETAINER**


**RESPONSE TO NOTICE OF NON-COMPLIANT**  
**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant submits a revised Appeal Brief. The Summary of Claimed Subject Matter now directly responds to claims 1, 6 and 9. With this change, the stated grounds for the non-compliance of the Appeal Brief have been corrected. It is respectfully requested that the appeal be allowed to move forward.

Respectfully submitted,

  
Christopher J. McDonald  
Reg. No. 41,533

February 14, 2006

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Attorney Docket No: A-7942.RNNCAB/eb



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

**Toshio HARIMA**

Examiner: **Bumgarner**

Serial No: **10/625,531**

Group Art Unit: 3732

Filed : **June 24, 2003**

For : **ORTHODONTIC WIRE RETAINER**

**APPLICANT'S APPEAL BRIEF**  
**UNDER 35 U.S.C. §41.37**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**(1) REAL PARTY IN INTEREST**

The real party in interest is the inventor, Toshio Harima.

**(2) RELATED APPEALS AND INTERFERENCES**

There are no related appeals and interferences.

**(3) STATUS OF CLAIMS**

Claims 1-10 are pending. All claims are rejected and appealed.

**(4) STATUS OF AMENDMENTS**

An Amendment After Final Rejection was filed on April 11, 2005. The amendment is entered for purposes of appeal.

**(5) SUMMARY OF CLAIMED SUBJECT MATTER**

An orthodontic wire retainer is applied to a dental arch following an orthodontic treatment.

Claim 1 recites an orthodontic wire retainer having a first metal wire **11** for conforming to the posterior surface of a dental arch **10** and a second metal wire **12** for conforming to the anterior surface of the dental arch **10**. A pair of third metal wires **13** extend between the first metal wire **11** and second metal wire **12**. The third metal wires **13** are attached to the first and second metal wires to form an annular bridge providing a resilient support for teeth along the dental arch. A wire rest **17** extends from the first wire for resting upon the top surface of the dental arch, the wire rest **17** spaced from the end of the first wire **11**. All wires are clearly seen in Figure 2 and described in paragraph [0013].

Claim 6, dependent on claims 1 and 5, further defines the wire rest as having a first section attached to said first wire and extending toward the second wire and a second section attached to said first section and extending toward the third wire, most clearly seen in Figure 4.

Claim 9, dependent on claim 1, 7 and 8, further defines the retainer as having a second wire rest extending from the first wire for resting upon the top surface of the dental arch, the second wire rest spaced from the end of the first wire **11**, the second wire rest having a first section attached to the first wire **11** and extending toward the second wire **12**, the second wire rest having a second section attached to the first section and extending toward the third wire, also clearly seen in Figure 4.

**(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1) Claims 1-10 rejected under 35 USC 112, second paragraph as failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2) Claims 1-5, 7, 8 and 10 rejected as anticipated by US patent 4,725,230 (Harima).

3) Claims 6 and 9 rejected as being obvious over Harima.

**(7) ARGUMENT**Rejection under 35 USC 112, second paragraph

Claims 1-10 are rejected as being indefinite, as the Examiner does not see how the wire rest is spaced from the end of the first wire.

Attached to this response is an annotated Figure 2 showing the claimed elements. Seen in this view is the first wire 11 extending past the two molars 40. The end of the first wire is spaced near the second molar. The wire rest, extending from the first wire 11, is shown as positioned between the premolar 30 and first molar. Therefore, the rest 17, while extending from the first wire, is spaced from the end of the first wire, as is claimed.

Rejection as anticipated under 35 USC 102(b) by US patent 4,725,230

The Examiner rejects claims 1-5, 7, 8 and 10 as being anticipated by U.S. Patent 4,725,230 (Harima). The retainer disclosed by Harima does not have a wire rest meeting this limitation of claim 1. In the rejection, the Examiner states that Figure 1 of Harima shows a wire rest spaced from the end of the first wire, having a first section attached to the first wire and extending toward

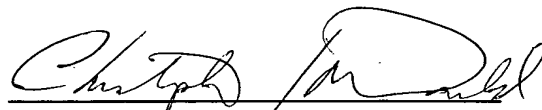
the second wire and being L-shaped. No reference numerals are provided in the rejection and no such structure in Figure 1 is seen by Applicant.

Rejection of claims 6 and 9 under 35 USC 103(a) by US patent 4,725,230.

The Examiner rejects claims 6 and 9 as obvious over Harima and states that it would have been obvious to have the second section of the L-shaped wire rest extend toward the third wire. While the structure relied upon by the Examiner as the wire rest is not clear to applicant, there is no teaching reference to support the modification proposed by the Examiner.

It is respectfully requested that the Examiner's rejections be reversed and the claims allowed.

Respectfully submitted,



Christopher J. McDonald  
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February 14, 2006  
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**CLAIMS APPENDIX**

1. An orthodontic wire retainer, comprising

- a first metal wire for conforming to the posterior surface of a dental arch;
- a second metal wire for conforming to the anterior surface of the dental arch;
- a pair of third metal wires extending between the first metal wire and second metal wire;
- said third metal wires attached to said first and second metal wires to form an annular bridge providing a resilient support for teeth along the dental arch;
- a wire rest extending from said first wire for resting upon the top surface of the dental arch, said wire rest spaced from the end of the first wire.

2. The orthodontic wire retainer of claim 1, further comprising a wire clasp.

3. The orthodontic wire retainer of claim 2, wherein said wire clasp is W-shaped.

4. The orthodontic wire retainer of claim 1, wherein said wire rest is L-shaped.

5. The orthodontic wire retainer of claim 1, wherein said wire rest has a first section attached to said first wire and extending toward said second wire.

6. The orthodontic wire retainer of claim 5, wherein said wire rest has a second section attached to said first section and extending toward said third wire.

7. The orthodontic wire retainer of claim 1, further comprising

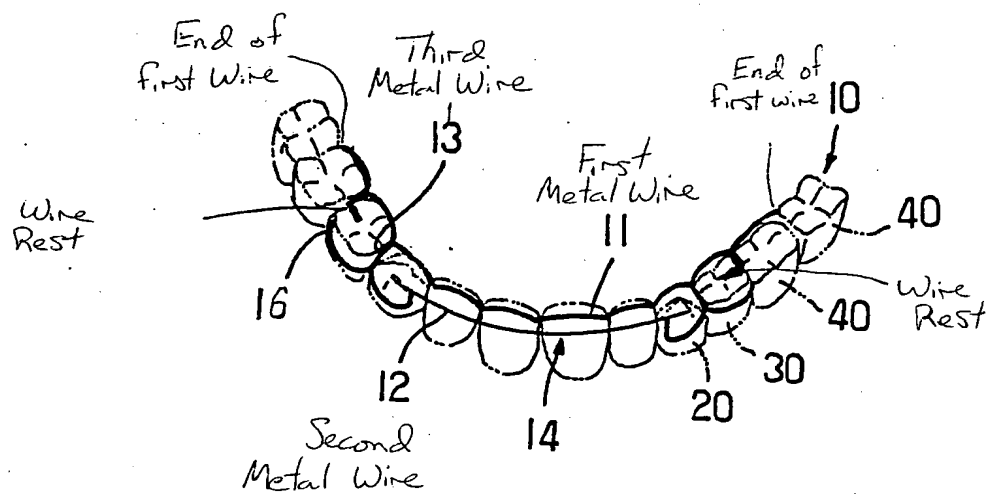
a second wire rest extending from said first wire for resting upon the top surface of the dental arch, said second wire rest spaced from the end of the first wire.

8. The orthodontic wire retainer of claim 7, wherein said second wire rest has a first section attached to said first wire and extending toward said second wire.

9. The orthodontic wire retainer of claim 8, wherein said second wire rest has a second section attached to said first section and extending toward said third wire.

10. The orthodontic wire retainer of claim 7, wherein said second wire rest is L-shaped.

## EVIDENCE APPENDIX



**RELATED PROCEEDINGS APPENDIX**

None